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Rights of indigenous peoples

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Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, submitted in accordance with Human Rights Council resolution 15/7.

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Report of the Special Rapporteur on the rights of indigenous peoples

Summary

The present report provides an overview of the activities carried out by the Special Rapporteur on the rights of indigenous peoples, James Anaya, during the first three-year term of his mandate, which began in May 2008. In particular, the report describes the Special Rapporteur's efforts to coordinate with global and regional mechanisms concerned with indigenous issues and outlines the work undertaken within four interrelated spheres of activity: promoting good practices, country reports, cases of alleged human rights violations and thematic studies.

The report includes summaries of the thematic studies that the Special Rapporteur has included in the annual reports he has submitted to date to the Human Rights Council. These includes studies on the United Nations Declaration on the Rights of Indigenous Peoples; the duty of States to consult with and obtain the consent of indigenous peoples before adopting measures that affect them; the responsibility of corporations to respect the rights of indigenous peoples; and, building on these themes, issues related to extractive industries operating in or near indigenous peoples' traditional territories.

Contents

		Page
I.	Introduction	3
II.	Coordination with other mechanisms	3
III.	Areas of work	5
	A. Promoting good practices	5
	B. Country reports	9
	C. Specific cases of alleged human rights violations	10
	D. Thematic studies	12
IV.	Overview of key thematic issues examined	12
	A. United Nations Declaration on the Rights of Indigenous Peoples	12
	B. The duty to consult	15
	C. Corporate responsibility with respect to the human rights of indigenous peoples	18
	D. Extractive industries operating in or near industrial territories	20
V.	Conclusion	22

I. Introduction

1. n In its resolution 2001/57, the Commission on Human Rights decided to appoint, for a three-year period, a special rapporteur on the situation of human rights and fundamental freedoms of indigenous people to gather, request, receive and exchange information and communications from all relevant sources concerning human rights violations against indigenous people themselves and their communities and organizations and to formulate recommendations and proposals to prevent and remedy such violations, among other functions.

2. In its resolution 6/12, the Human Rights Council decided to extend the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, to develop a regular cooperative dialogue with Governments, relevant United Nations bodies, specialized agencies and programmes, as well as indigenous peoples, non-governmental organizations and other regional or subregional international institutions; to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his mandate, and to identify, exchange and promote best practices; and to promote the United Nations Declaration on the Rights of Indigenous Peoples and international instruments relevant to the advancement of the rights of indigenous peoples, where appropriate.

3. By its resolution 15/14, the Council renewed the mandate, referring to the Special Rapporteur as the Special Rapporteur on the rights of indigenous peoples, not as the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, under essentially the same terms.

4. The Human Rights Council appointed James Anaya of the United States of America Special Rapporteur on the rights of indigenous peoples for an initial term of three years beginning 1 May 2008. Mr. Anaya's appointment to the mandate was renewed for a second three-year term effective 1 May 2011.

5. The present report provides an overview of the Special Rapporteur's work during the first three years of his appointment. It describes his efforts to coordinate with United Nations and other international mechanisms and agencies, and outlines the following initiatives, carried out within four interrelated spheres of activity relevant to the mandate: promoting good practices, reporting on country situations, examining cases of alleged human rights violations and developing or contributing to thematic studies. The report includes summaries of the major points that have been made in the examination of key topics and that have been included in the annual reports of the Special Rapporteur to the Human Rights Council.

II. Coordination with other mechanisms

6. As indicated in Council resolution 15/14, a fundamental aspect of the mandate of the Special Rapporteur is his ongoing cooperation and partnership with other United Nations mechanisms dedicated to the promotion and protection of the rights of indigenous peoples, namely the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples.

7. The Special Rapporteur has noted a significant level of confusion among indigenous groups, non-governmental organizations and other stakeholders about the respective roles and functions of the three mechanisms, as well as their place within the institutional structure of the United Nations. He has therefore strived to collaborate with the other mechanisms in a coherent and transparent way in order to maximize understanding about the role and purpose of each mechanism.

8. The respective mandates of these three mechanisms, created at different times and in response to different moments in the international movement to protect the rights of indigenous peoples, are complementary but overlapping in certain respects. The Special Rapporteur has consistently worked to strengthen and consolidate the coordination processes between them to avoid unnecessary duplication and to maximize opportunities and the effectiveness of each body. He believes that continued education about the individual mandates and functions of these mechanisms is essential.

9. The Special Rapporteur has, from the beginning of his mandate, participated in regular coordination meetings with both the Permanent Forum and the Expert Mechanism to promote coordination. In February 2009, he participated in a seminar in Madrid with the members of the Expert Mechanism and four members of the Permanent Forum, along with a group of experts from various regions, including the former Special Rapporteur, Rodolfo Stavenhagen. The main objective of the meeting was to promote an informal dialogue among the members of the three mechanisms so that they could better coordinate their work, as well as their activities with other United Nations agencies and bodies.

10. Since then, the Special Rapporteur has met annually with representatives of the Permanent Forum and the Expert Mechanism to share work agendas, discuss the strengths and limitations of their respective mandates and explore methods for carrying out their work in the most effective way possible.

11. The Special Rapporteur has also worked closely with the Expert Mechanism and contributed to its final study on indigenous peoples and the right to participate in decision-making. He participated in two meetings: a regional consultation organized by the Asia Indigenous Peoples Pact, which members of the Expert Mechanism also attended, held in Thailand in January 2010; and an expert seminar convened by the Office of the United Nations High Commissioner for Human Rights (OHCHR), held in Geneva in March 2011. The study (A/HCR/EMRIP/2011/2) was presented at the fourth session of the Expert Mechanism, held in Geneva from 11 to 15 July 2011. The Special Rapporteur had also provided comments for the previous study of the Expert Mechanism, on the right of indigenous peoples to education.

12. Since assuming his mandate, the Special Rapporteur has attended each annual session of the Permanent Forum and the Expert Mechanism and has participated in the discussion of the substantive issues under consideration. During those sessions, he developed the practice of holding parallel meetings with indigenous peoples and organizations, which have provided an invaluable opportunity for representatives of indigenous peoples and organizations from around the world to raise their specific situations and concerns in a manner that complements the more general discussions of indigenous issues by the Permanent Forum and Expert Mechanism. During the sessions, the Special Rapporteur also met with representatives of various States and

United Nations agencies to discuss opportunities for collaboration and specific cases concerning indigenous peoples.

13. In addition to cooperating with the Expert Mechanism and the Permanent Forum, the Special Rapporteur has welcomed opportunities to join efforts with a range of United Nations, regional and specialized bodies on matters concerning indigenous peoples. He has provided observations on initiatives of the United Nations Development Programme (UNDP), OHCHR, the World Bank, the World Intellectual Property Organization (WIPO) and the Pan American Health Organization. This coordination is important, as the Special Rapporteur promotes awareness of indigenous issues and programmatic action that is conducive to mainstreaming those issues and to effectively implementing standards of indigenous rights as affirmed in relevant international instruments.

14. The Special Rapporteur has continued to exchange information with the Inter-American Commission on Human Rights on cases of alleged violations of the rights of indigenous peoples in the Americas, in an attempt to ensure coordinated efforts and avoid unnecessary duplication. He has also confirmed his willingness to cooperate with the Working Group on Indigenous Populations of the African Commission on Human and Peoples' Rights in the future.

III. Areas of work

15. The Special Rapporteur has engaged in a range of activities to monitor the human rights conditions of indigenous peoples worldwide and promote steps to improve those conditions in line with relevant international standards, including the United Nations Declaration on the Rights of Indigenous Peoples. He has tried to develop work methods oriented towards building a constructive dialogue with Governments, indigenous peoples, non-governmental organizations, relevant United Nations agencies and others in order to address challenging issues and situations and build on advances already made. The various activities carried out in this spirit can be described, as already indicated, as falling within four, interrelated spheres of activity: promoting good practices, country reports, cases of alleged human rights violations and thematic studies.

A. Promoting good practices

16. The Special Rapporteur has worked to advance legal, administrative and programmatic reforms at the national and international levels in accordance with the Declaration and other relevant international instruments. Often, such reforms are major, complex undertakings requiring strong commitment, both financial and political, on the part of Governments and international entities, as well as close cooperation with indigenous peoples.

1. Promoting good practices at the national level

17. During the course of his work, the Special Rapporteur has been asked to provide assistance with constitutional and legislative reform initiatives aimed at harmonizing national frameworks with relevant international standards.

18. Shortly after assuming his mandate in May 2008, the Special Rapporteur was asked by indigenous organizations and the President of the Constituent Assembly of Ecuador, as part of the programme of technical assistance provided by UNDP in the country, to provide technical assistance with the constitutional revision process. The Special Rapporteur visited Ecuador and submitted a number of observations to the Government in the light of relevant international norms (A/HRC/9/9/Add.1, para. 502). Ecuador's new constitution was approved by referendum in September 2008 with significant provisions affirming indigenous peoples' collective rights.

19. The Special Rapporteur has continued to monitor the implementation by Ecuador of those reforms and subsequent legislation and, in 2010, presented to the Council at its fifteenth session his observations on progress made and challenges remaining with regard to implementing the constitutional guarantees for indigenous people in Ecuador (A/HRC/15/37/Add.7). Furthermore, he has provided comments on various drafts of legislation currently under consideration by the National Assembly of Ecuador to coordinate indigenous customary justice systems with the national justice system, in accordance with related provisions of the Constitution.

20. Similarly, in April 2009, the Special Rapporteur submitted a report to the Government of Chile outlining and analysing the international norms on the duty to consult indigenous peoples in relation to the constitutional reform process in Chile (A/HRC/12/34/Add.6, appendix A).

21. In July 2010, the Special Rapporteur provided an analysis of international standards relevant to the development in Colombia of a law or regulation on the duty to consult with indigenous peoples and Afro-Colombian communities on matters affecting them. His input was part of an initiative launched by OHCHR at the request of an advisory group on the matter of the Ministry of Interior and Justice of Colombia.

22. Likewise, over the course of several weeks in February 2011 the Special Rapporteur provided observations on the initiative of the Government of Guatemala to regulate a procedure for consultation with indigenous peoples.

23. Additionally, at the request of the Government of Suriname and indigenous and tribal peoples, the Special Rapporteur provided observations and recommendations on a process to develop legislation to secure indigenous and tribal peoples' rights to lands and resources, in the light of binding judgments issued in this connection by the Inter-American Court of Human Rights (A/HRC/18/35/Add.7). The observations and recommendations were based in part on information gathered during a visit to Suriname in March 2011.

24. In December 2008, the Special Rapporteur attended a ceremony in Awas Tingni, Nicaragua, during which the Government handed over to the indigenous community the long-awaited title to its ancestral lands, as required by a 2001 judgement of the Inter-American Court of Human Rights. He commended the Government of Nicaragua for taking steps to implement the judgement, and has continued discussions with the Government to encourage progress towards securing the rights to land and resources of other indigenous communities in that country.

2. Promoting good practices by international institutions and authorities

25. The Special Rapporteur has sought to promote decisions, programmatic reforms and initiatives by international actors, at both the global and regional levels,

and to strengthen, mainstream and advance implementation of international standards concerning the rights of indigenous peoples.

26. In July 2011, the Special Rapporteur testified as an expert witness before the Inter-American Court of Human Rights in the case *Sarayaku v. Ecuador*, regarding the principles of consultation and free prior and informed consent.

27. In May 2011, the Special Rapporteur gave the keynote speech at a session in Geneva of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of WIPO, which is in the process of developing an international legal instrument on traditional knowledge, genetic resources and traditional cultural expressions.

28. In February 2011, the Special Rapporteur provided extensive observations on the draft guidelines of UNDP on consultation with indigenous peoples in the context of activities to reduce emissions from deforestation and forest degradation. Also in February 2011, he contributed to the development of a regional intercultural health policy by the Pan American Health Organization during a special meeting convened in Washington, D.C.

29. In January 2011, in Paris, he participated in the meeting of a working group of State delegates to the Organization for Economic Cooperation and Development (OECD), providing comments to focus attention on indigenous issues in the process of updating the *OECD Guidelines for Multinational Enterprises*.

30. At various times during the past year, the Special Rapporteur has provided comments to the International Finance Corporation of the World Bank Group during the Corporation's review of its performance standard No. 7, on indigenous peoples, including by meeting with officials of the Corporation and providing written observations on drafts of the performance standard.

31. In November 2010, the Special Rapporteur participated in a seminar in Geneva on land and human rights hosted by OHCHR, at which he provided information on and analysis of the particular human rights concerns of indigenous peoples in relation to lands.

32. The Special Rapporteur participated in seminars on the United Nations Declaration on the Rights of Indigenous Peoples organized by OHCHR in Peru, in October 2008, in Nicaragua, in June 2009, and in Trinidad and Tobago, in December 2009.

33. The Special Rapporteur has been collaborating with UNDP to produce a resource guide on indigenous peoples' rights for UNDP staff and others working on indigenous issues.

34. Additionally, the Special Rapporteur has cooperated with the World Bank. On 3 June 2008, he was the featured speaker at a seminar on "Advancing indigenous rights and development in Latin America and the Caribbean", held in Washington, D.C., at which he focused on the role of the World Bank in relation to various challenges and initiatives concerning indigenous peoples. The Special Rapporteur continues to maintain contact with representatives of the World Bank to explore ways of coordinating further with a view to advancing indigenous peoples' rights through the Bank's programmes.

3. Promoting support for the United Nations Declaration on the Rights of Indigenous Peoples

35. Another important way in which good practices can be promoted among both national and international entities is by advancing a policy of commitment to the rights enshrined in the United Nations Declaration on the Rights of Indigenous Peoples. To that end, the Special Rapporteur has actively encouraged support for the Declaration by those States that did not vote in favour of its adoption by the General Assembly in 2007. In recent years, he has welcomed the reversal of positions by Australia, Canada, New Zealand and the United States, the four States that had cast votes against the Declaration. He has been pleased to observe that Colombia and Samoa, States that had abstained from the vote, have since declared their support for the Declaration. The Special Rapporteur has devoted sections of his thematic reports to further analysis of the Declaration and its implementation.

36. The Special Rapporteur has sought to promote awareness of and action in accordance with the Declaration through a number of activities. In June 2011, he testified at a hearing of the United States Senate Committee on Indian Affairs entitled "Setting the standard: the domestic policy implication of the United Nations Declaration on the Rights of Indigenous Peoples". In April 2011, he gave the keynote address at the biennial conference of the New South Wales Aboriginal Land Council in Australia, at which the Land Council discussed the Declaration as a benchmark for major aspects of its work. Additionally, he gave a presentation on the Declaration to representatives of various United Nations agencies in a seminar organized by UNDP in New York, on 20 May 2009, at which he emphasized the role of United Nations agencies and programmes in implementing the Declaration.

4. Other measures to promote good practices

37. Participation in seminars or conferences involving indigenous peoples, experts, Government representatives and other actors has been an important means by which the Special Rapporteur has sought to promote good practices.

38. In March 2011, the Special Rapporteur gave the keynote address at an expert workshop in Berlin convened by the Federal Ministry on Economic Cooperation and Development of Germany, concerning German development cooperation in Africa and Asia.

39. In May 2010, the Special Rapporteur participated in a seminar on multiculturalism and the oil and gas industry in Latin America and the Caribbean in Cartagena, Colombia, organized by the Regional Association of Oil, Gas and Biofuels Sector Companies in Latin America and the Caribbean. The seminar provided an opportunity for dialogue with representatives of oil and gas companies, as well as with academics and members of civil society, on the obligations of private companies to respect international standards regarding indigenous peoples' rights.

40. The Special Rapporteur participated in a seminar on indigenous rights, held in Jakarta on 16 and 17 March 2009, sponsored by the National Human Rights Commission of Indonesia and the Indigenous Peoples' Alliance of the Archipelago. At the seminar, the Human Rights Commission and the Peoples' Alliance announced an agreement on a joint programme to address indigenous issues — a good example of coordination between a State's independent human rights commission and a major indigenous organization.

41. The Special Rapporteur also participated in a meeting of experts held in October 2009 in Sitges, Spain, and sponsored by the non-governmental organizations Kreddha and the United Nations Educational, Scientific and Cultural Organization Centre of Catalonia, at which the participants analysed sources of conflicts arising from extractive activities carried out by companies in indigenous territories and possible ways of preventing and resolving such conflicts. The discussions served as a valuable contribution to the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people submitted to the Human Rights Council at its fifteenth session (A/HRC/15/37).

42. The Special Rapporteur visited Australia to attend a meeting entitled "The Sixtieth Anniversary of the Universal Declaration on Human Rights: The Situation of Human Rights and Fundamental Freedoms of the Aboriginal and Torres Strait Islander People of Australia", organized by the Foundation for Aboriginal and Islander Research Action and held in Canberra in December 2008. The Special Rapporteur had the opportunity to meet informally with various governmental representatives, marking the beginning of a constructive dialogue in preparation for his official mission to Australia in August 2009.

43. In an innovative initiative by an indigenous government, the Navajo Nation in the United States has established the Navajo Nation Human Rights Commission. In December 2008, the Special Rapporteur attended a human rights orientation organized by the Commission for members of the Navajo Nation Council and engaged in a discussion with the Commission and Council members on ways to advance the human rights of Navajo people through the use of international human rights mechanisms.

44. In October 2008, the Special Rapporteur attended the sixty-fifth convention of the National Congress of American Indians. He gave a presentation on the use of international standards to strengthen the protections for the rights of indigenous peoples in the United States. The National Congress is a coalition of over 250 indigenous nations in the United States that works to inform decisions of the Government of the United States and Congress that affect indigenous peoples' interests.

45. In October 2008, the Special Rapporteur, together with the Special Rapporteur on violence against women, its causes and consequences, participated in a regional consultation of non-governmental organizations on violence against indigenous women in Asia and the Pacific. The consultation was organized by the Asia Pacific Forum on Women, Law and Development and was held in New Delhi.

B. Country reports

46. Over the past three years, the Special Rapporteur has issued various reports on the human rights situations of indigenous peoples in various countries. Those reports include conclusions and recommendations aimed at strengthening good practices, identifying areas of concern and improving the human rights conditions of indigenous peoples in specific countries or regions. The reporting process typically involves a visit to the country under review, including to the capital and selected places of concern, during which the Special Rapporteur interacts with Government representatives, indigenous communities from different regions and a cross-section

of civil society working on issues of relevance to indigenous peoples. The visits take place with the consent and cooperation of the respective Government.

47. The Special Rapporteur has conducted visits to and reported on Brazil (A/HRC/12/34/Add.2); Nepal (A/HRC/12/34/Add.3); Botswana (A/HRC/15/37/Add.2); Australia (A/HRC/15/37/Add.4); the Russian Federation (A/HRC/15/37/Add.5); the Sápmi region (the traditional territory of the Sami people) in Norway, Sweden and Finland (A/HRC/18/35/Add.2); the Congo (A/HRC/18/35/Add.5); and New Caledonia (France) (A/HRC/18/35/Add.6). He has also conducted follow-up visits to Chile (A/HRC/12/34/Add.6), Colombia (A/HRC/15/37.Add.3) and New Zealand (A/HRC/18/35/Add.4) to evaluate the progress made in those countries in implementing the recommendations made by the Special Rapporteur's predecessor.

48. In 2011, the Special Rapporteur will visit Argentina and, early in 2012, the United States. He has also received invitations from the Governments of Panama and El Salvador to evaluate the situations of indigenous peoples in those countries, and welcomes those invitations. The Special Rapporteur has outstanding requests to visit Bangladesh, Cambodia, Malaysia, Indonesia and Papua New Guinea, which he hopes will be considered favourably.

C. Specific cases of alleged human rights violations

49. Another principal area of the Special Rapporteur's work involves responding, on an ongoing basis, to allegations of human rights violations in specific cases. Summaries of letters sent by the Special Rapporteur communicating his concerns over particular situations and responses received from Governments, together with the Special Rapporteur's observations and recommendations, are included in his communications to and from Governments (A/HRC/18/35/Add.1, A/HRC/15/37/Add.1 and A/HRC/12/26/Add.1).

50. The Special Rapporteur has received information about cases of alleged human rights violations in countries on every continent and, in response to them, has sent numerous communications to Governments about these situations. Complaints received have related to common issues that affect indigenous peoples throughout the world, including the denial of the rights of indigenous peoples to their lands, territories and natural resources; violations of the right to consultation and to free, prior and informed consent, especially with regard to natural resource extraction or the eviction of indigenous communities; threats or violence against indigenous individuals and communities, including human rights defenders; concerns about constitutional or legislative reforms in indigenous subject matter; issues related to the recognition of indigenous justice systems; and the situation of indigenous peoples in isolation.

51. Given the limited resources available, it is impossible for the Special Rapporteur to respond to every case that comes to his attention. However, he frequently acts on detailed and credible information that presents a serious situation falling within his mandate in which intervention has a reasonable chance of having a positive impact, either by drawing needed attention to the situation or by prompting Government authorities or other actors to take corrective action. Alternatively, he may take action where the situation is representative of, or connected to, a broader pattern of human rights violations against indigenous peoples. He has responded to allegations of human rights violations from a wide range of regions and countries.

52. The Special Rapporteur aims to engage actively with States, indigenous peoples and others to closely monitor and evaluate situations, identify underlying causes of immediate problems, promote specific action that builds on advances already made and make recommendations that are practical, founded on available knowledge and in accordance with relevant human rights standards.

53. Therefore, for some cases examined, the Special Rapporteur has developed detailed observations and recommendations that he has communicated to Governments, regarding the action which, in his view, States and, as appropriate, other interested parties should take to address those situations, within the framework of the relevant international standards. He will continue to engage with States about these specific situations and hopes that the dialogue to date has been useful for the Governments and indigenous peoples concerned.

54. Certain communications received by the Special Rapporteur contain allegations of specific violations of human rights of indigenous peoples that warrant deeper analysis. For these matters, he has carried out site visits to countries as part of his examination of those cases. As a result of the visits, he has issued detailed observations with analyses and recommendations, in the hope that they will be of use to the Governments and indigenous peoples concerned in their efforts to address the problems raised.

55. In that connection, in April 2011 the Special Rapporteur travelled to Costa Rica to examine the situation of indigenous peoples affected by the El Diquís hydroelectric project. The Special Rapporteur provided the Government and indigenous stakeholders with his observations and recommendations on the situation (A/HRC/18/35/Add.8).

56. Similarly, in June 2010, the Special Rapporteur visited Guatemala to discuss the implementation of the principles of consultation with indigenous peoples in the country, particularly in relation to extractive industries, with a special focus on the situation of indigenous peoples affected by the Marlin mine in the municipalities of San Miguel Ixtahuacán and Sipacapa (A/HRC/18/35/Add.3).

57. In February 2009, the Special Rapporteur travelled to Panama to examine the situation of the indigenous communities affected by the construction of a hydroelectric project on the Changuinola River in Panama (A/HRC/12/34/Add.5). In June 2009, he went to Peru immediately following the confrontations between indigenous peoples and the police in Bagua, Peru, in order to examine first hand the human rights issues (A/HRC/12/34/Add.8).

58. During his visit to Australia in August 2009, the Special Rapporteur followed up on earlier communications concerning the effects on indigenous rights of the Northern Territory Emergency Response of the Government of Australia. He prepared a special report containing his observations on that matter, which was annexed to his report on the situation of indigenous peoples in Australia (A/HRC/15/37/Add.4, appendix B.)

59. The Special Rapporteur believes that his ability to intervene rapidly in situations of crisis involving indigenous peoples, such as the situation of Bagua in Peru, has proved to be an effective use of his mandate, allowing him to play a key role in the resolution, mitigation or improvement of situations of crisis involving indigenous peoples.

60. On occasion, the Special Rapporteur has issued media or other public statements in response to issues of immediate concern arising in specific countries. He has issued public statements on the following issues: Government reactions to protests by the Rapa Nui people on Easter Island (Chile); concerns surrounding a hunger strike by Mapuche indigenous prisoners protesting charges brought against them under an anti-terrorism law (Chile); protests by indigenous peoples against legislation on mining (Panama); laws and policies regarding consultation with indigenous peoples (Peru); and concerns over legislation adopted by the State of Arizona (United States) giving the police the power to detain suspected illegal immigrants and the effects of this legislation on indigenous peoples in the United States/Mexico border region.

D. Thematic studies

61. During the first three years of his mandate, the Special Rapporteur sought to identify common issues or matters of concern to indigenous peoples throughout the world and to address those concerns with informed analysis and recommendations. His analyses of thematic issues have built upon his examination of national situations and cases, and have been further informed by his experiences in the promotion of good practices. In each of his annual reports to the Human Rights Council, he has examined key issues, including the following: the significance of the United Nations Declaration on the Rights of Indigenous Peoples; the duty of States to consult with and obtain the consent of indigenous peoples before adopting measures that affect them; the responsibility of corporations to respect the rights of indigenous peoples; and, most recently, and building on the previous themes, issues related to extractive industries operating in or near indigenous peoples' traditional territories.

IV. Overview of key thematic issues examined[1]

A. United Nations Declaration on the Rights of Indigenous Peoples

1. Overview

62. During the last three decades, the demands of indigenous peoples across the world have led to the gradual emergence of a common body of opinion on the rights of these peoples based on long-standing principles of international human rights law and policy. The emergence of this common understanding has further been reflected in and supported by constitutional, legislative and institutional reforms at the national level. The adoption by the General Assembly in 2007 of the United Nations Declaration on the Rights of Indigenous Peoples is the most prominent manifestation of this common body of opinion, encapsulating as it does a widely shared understanding of the rights of indigenous peoples that has been building over decades from a foundation of existing sources of international human rights law.

63. The Declaration's preamble stresses the essentially remedial purpose of the instrument. Far from affirming special rights per se, the Declaration aims at

[1] This section summarizes the Special Rapporteur's examination of the United Nations Declaration on the Rights of Indigenous People in A/HRC/9/9 (paras. 18-43).

repairing the ongoing consequences of the historical denial of the right to self-determination and other basic human rights that are affirmed in international instruments of general applicability. In this sense, the Declaration does not create new or special rights separate from the fundamental human rights that are deemed of universal application, but rather elaborates upon these fundamental rights in the specific cultural, historical, social and economic circumstances of indigenous peoples.

64. The Declaration affirms in its article 3 the right of indigenous peoples to self determination in a way that is deemed compatible with the principle of territorial integrity and political unity of States. On these grounds, the Declaration provides a detailed list of rights that constitute "the minimum standards for the survival, dignity and well-being of indigenous peoples of the world" (art. 43). The Declaration reaffirms basic individual rights to equality and non-discrimination, life and personal integrity and freedom, nationality and access to justice; and it calls for special attention to specific rights and needs of indigenous elders, women, youth, children and persons with disabilities.

65. At the same time, the Declaration affirms rights of a collective character in relation to self-government and autonomous political, legal, social and cultural institutions; cultural integrity, including cultural and spiritual objects, languages and other cultural expressions; lands, territories and natural resources; social services and development; treaties, agreements and other constructive arrangements; and cross-border cooperation. The Declaration also reflects the common understanding that indigenous peoples' self-determination ordinarily involves not only the exercise of autonomy but also a participatory engagement and interaction with the larger societal structures in the countries in which indigenous peoples live. Hence the Declaration recognizes indigenous peoples' right to participate in the political, economic, social and cultural life of the State and to be consulted in relation to decisions affecting them, with the objective of obtaining their prior, free and informed consent.

2. Normative and legal significance

66. On too many occasions in his work, the Special Rapporteur has come across efforts by States and other actors to diminish the normative weight of the Declaration by describing it as an instrument that is not legally binding. While this point can be conceded, a solid understanding of the normative significance and legal obligations related to the Declaration does not end there.

67. Whatever its precise legal significance, the Declaration has a significant normative weight grounded in its high degree of legitimacy. This legitimacy is a function of not only the fact that it has been formally endorsed by an overwhelming majority of Member States (including by the four States that had voted against its adoption, see para. 35 above) but also the fact that it is the product of years of advocacy and struggle by indigenous peoples themselves. The Declaration is the result of a cross-cultural dialogue that has taken place over decades and in which indigenous peoples have played a leading role. The norms of the Declaration substantially reflect indigenous peoples' own aspirations, which after years of deliberation have come to be accepted by the international community. The Declaration's wording, which has been endorsed by Members States, explicitly manifests a commitment to the rights and principles embodied in the Declaration. It

is simply a matter of good faith that States adhere to that expression of commitment to the norms that indigenous peoples themselves have advanced.

68. Furthermore, even though the Declaration itself is not legally binding in the same way that a treaty is, the Declaration reflects legal obligations that are related to the human rights provisions of the Charter of the United Nations, various multilateral human rights treaties and customary international law. The Declaration builds upon the general human rights obligations of States and is grounded in fundamental human rights principles such as non-discrimination, self-determination and cultural integrity, which are incorporated into widely ratified human rights treaties, as evident in the work of United Nations treaty bodies. In addition, core principles of the Declaration can be seen to connect to a consistent pattern of international and State practice, and hence, to that extent, they reflect customary international law.

69. Additionally, the Declaration reflects the existing international consensus regarding the individual and collective rights of indigenous peoples in a way that is coherent with and expands upon the provisions of the Convention on Indigenous and Tribal Peoples (Convention No. 169) of the International Labour Organization, as well as with the interpretations of other human rights instruments by international bodies and mechanisms. As the most authoritative expression of this consensus, the Declaration provides a framework of action for the full protection and implementation of these rights.

70. Thus, the significance of the Declaration is not to be diminished by assertions of its technical status as a resolution that is not legally binding. In the view of the Special Rapporteur, implementation of the Declaration should be regarded as a political, moral and, yes, legal imperative.

3. Measures needed to implement the Declaration

71. On various occasions the Special Rapporteur has offered comments on minimum steps that he considers must be taken in order to move forward with the implementation of the Declaration, beyond its formal endorsement by States.

72. State officials and indigenous leaders should receive training on the Declaration and the related international instruments and on practical measures to implement the Declaration. In addition, seminars and conferences should be organized at the national and local levels to bring together State officials and indigenous leaders to develop strategies and initiatives for implementation, including measures to address historical grievances, in the spirit of cooperation and reconciliation that the Declaration represents.

73. States should engage in comprehensive reviews of their existing legislation and administrative programmes to identify where they may be incompatible with the Declaration. This would include a review of all laws and programmes touching upon indigenous peoples' rights and interests, including those related to natural resource development, land, education and administration of justice. On the basis of such a review, necessary legal and programmatic reforms should be developed and implemented in consultation with indigenous peoples.

74. States should be committed to devoting significant human and financial resources to take the measures required to implement the Declaration. Such measures typically include the demarcation or return of indigenous lands, the

development of culturally appropriate educational programmes, support for indigenous self-governance institutions and the many other measures contemplated by the Declaration.

75. The United Nations system and the international community should, as a matter of the utmost priority, develop programmes to provide technical and financial assistance to States and indigenous peoples to move forward with these and related steps to implement the Declaration.. In some instances, existing United Nations and international cooperation programmes may also have to be reformed so that they are in line with the goals and objectives of the Declaration.

76. To some extent, these minimum steps to implement the Declaration are already being taken by some States, in some cases with the backing of United Nations agencies or international cooperation programmes. The goal is for these initiatives to take root much more broadly than they have to date and for experiences to be shared among all relevant stakeholders in order to strengthen these initiatives.

B. The duty to consult[2]

1. Normative grounds and general character

77. The duty of States to consult with indigenous peoples on decisions affecting them finds prominent expression in the United Nations Declaration on the Rights of Indigenous Peoples and is firmly rooted in international human rights law. That duty is referenced throughout the Declaration in relation to particular concerns and is affirmed as an overarching principle in article 19, which provides the following: "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."

78. Like the Declaration, the Convention on Indigenous and Tribal Peoples requires States to consult with indigenous peoples in good faith with the objective of achieving their agreement or consent on those aspects of management schemes or projects that affect them, and calls upon States to carry out consultations with indigenous communities in connection with a variety of contexts. The duty of States to effectively consult with indigenous peoples is also grounded in the core human rights treaties of the United Nations, including the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. At the regional level, the duty to consult arises from the obligations assumed by States under the American Convention on Human Rights, as affirmed by the Inter-American Court of Human Rights in a series of cases.

79. Most fundamentally, the duty to consult derives from the overarching right of indigenous peoples to self-determination and from related principles of democracy and popular sovereignty. It responds to the aspirations of indigenous peoples worldwide to be in control of their own destinies under conditions of equality and to participate effectively in decision-making processes that affect them. Consistent

[2] This section summarizes the Special Rapporteur's examination of the duty to consult in A/HRC/12/34 (paras. 36-57 and 61-74).

with such principles, the duty of States to consult with indigenous peoples in decisions affecting them is aimed at reversing the historical pattern of excluding indigenous people from decision-making processes in order to avoid imposing important decisions on them in the future and to allow them to flourish as distinct communities on lands to which their cultures remain attached.

80. As a general matter, decisions of the State should be made through democratic processes in which the public's interests are adequately represented. However, these normal democratic and representative processes usually do not work adequately to address the concerns that are particular to indigenous peoples, who are typically marginalized from the political sphere. The duty of States to consult with indigenous peoples and its various normative components are premised on widespread acknowledgment, as manifested in the Declaration, of indigenous peoples' distinctive characteristics and specific rights and on the need for special measures to address their disadvantaged conditions.

2. The duty to consult and the objective of obtaining consent

81. The duty to consult is a procedural obligation that arises whenever indigenous peoples' substantive rights stand to be affected by a particular action. It should be noted that the duty to consult is not limited to circumstances in which a proposed measure will or may affect an already recognized right or legal entitlement at the national level, for example, rights over traditional lands and territories.

82. The specific characteristics of the consultation procedure that is required by the duty to consult will necessarily vary depending on the nature of the proposed measure and the scope of its impact on indigenous peoples. For example, constitutional or legislative reform measures that concern or affect all the indigenous peoples of a country will require appropriate consultation and representative mechanisms that will in some way be open to and reach all indigenous peoples. By contrast, measures that affect particular indigenous peoples or communities, such as initiatives for extracting natural resources in their territories, will require consultation procedures focused on the interests of and engagement with the affected groups.

83. The character of the consultation procedure and its object are also shaped by the nature of the right or interest at stake for the indigenous peoples concerned and the anticipated impact of the proposed measure. Necessarily, the strength of the objective of achieving consent varies according to the circumstances, the indigenous peoples' rights and the interests involved. A significant, direct impact on indigenous peoples' lives establishes a strong presumption that the proposed measure should not go forward without indigenous peoples' consent. In certain contexts, that presumption may harden into a prohibition of the measure or project in the absence of indigenous consent.

84. The Declaration identifies two situations in which it is necessary to obtain the consent of the indigenous peoples concerned prior to moving forward with the proposed initiative: situations involving the removal of an indigenous group from its traditional lands (art. 10) and situations involving the storage of hazardous materials in indigenous peoples' lands (art. 29). The Special Rapporteur would add situations involving the establishment of natural resource extraction projects within indigenous peoples' lands and other situations in which projects stand to have a

significant social or cultural impact on the lives of the indigenous peoples concerned.

85. Still, in all cases in which indigenous peoples' particular interests are affected by a proposed measure, obtaining their consent should, to some degree, be an objective of the consultation. The principles of good faith imply an effort to build dialogue in which both States and indigenous peoples are to work towards consensus and try in earnest to arrive at a mutually satisfactory agreement. All parties should be willing to listen and compromise on their positions and defend their legitimate interests and arrive at agreements that are binding on all.

86. Nonetheless, affected indigenous peoples could be justified in withholding their consent in relation to a proposed initiative, and the proposed initiative should indeed not move forward without such consent, if the State has not demonstrated that the rights of affected indigenous peoples will be adequately protected under the proposed project or if the State has not adopted adequate measures to mitigate any adverse impacts of the proposed project.

3. Elements of confidence-building conducive to consensus

87. A good faith effort towards consensual decision-making requires that States endeavour to create a climate of confidence with indigenous peoples that allows for a productive dialogue. This is particularly important in relation to indigenous peoples given their historic exclusion from decision-making processes and consequent lack of trust in State institutions. Furthermore, indigenous peoples are typically disadvantaged in terms of political influence, financial resources, access to information and relevant education in comparison to State institutions or private parties, such as companies, that are their counterparts in the consultations.

88. In order to achieve a climate of confidence and mutual respect for the consultations, the consultation procedure itself should be the product of consensus. The Special Rapporteur has observed that, in many instances, consultation procedures are not effective and do not enjoy the confidence of indigenous peoples because the affected indigenous peoples were not adequately included in the discussions leading to the design and implementation of the consultation procedures. These discussions should be initiated at the earliest stages of the design of the proposed initiative and certainly, in the case of natural resource extraction projects, before the State has entered into any agreements with third parties, such as funding institutions or companies, in relation to the proposed project. Additionally, States must duly address the imbalance of power by ensuring arrangements by which indigenous peoples have the financial, technical and other assistance they need, and they must do so without using such assistance to leverage or influence indigenous positions in the consultations.

89. The building of confidence and the possibility of genuine consensus also depends on a consultation procedure in which indigenous peoples' own institutions of representation and decision-making are fully respected. Indigenous peoples may also need to develop or revise their own institutions, through their own decision-making procedures, in order to set up representative structures to facilitate the consultation processes. The Special Rapporteur has noted that the failure of indigenous groups to clarify their representative organization structures can confuse and slow down the consultation process.

90. In cases involving natural resource exploitation or development projects affecting indigenous lands, in order for the indigenous peoples concerned to make free and informed decisions about the project under consideration, it is necessary that they are provided with full and objective information about all aspects of the project that will affect them, including the impact of the project on their lives and environment. In this connection, it is essential for the State to carry out, with the participation of the indigenous groups concerned, environmental and social impact studies so that the full expected consequences of the project can be known.

91. Furthermore, a consensus-driven consultation process in such contexts should not only address measures to mitigate or compensate for adverse impacts of the project, but also explore and arrive at means of equitable benefit-sharing in a spirit of true partnership.

C. Corporate responsibility with respect to the human rights of indigenous peoples[5]

92. The international community has reached a certain level of consensus that business enterprises have a responsibility to respect human rights. This consensus is reflected in the many regulatory and self-regulatory frameworks governing corporate responsibility that have appeared in recent decades, at both the international and national levels. The guiding principles on business and human rights (A/HRC/17/31) of the Special Representative were endorsed by the Human Rights Council at its seventeenth session (Council resolution 17/4). Beyond the question of their legal status, the various existing instruments and mechanisms on corporate responsibility clearly reflect the existence of social expectations with regard to corporate responsibility and the need to exercise it in relation to human rights.

93. A central pillar of this normative framework is that companies have a general duty to respect international human rights standards within the context of the due diligence that must govern their activities. Due diligence is not limited to respect for the national regulations of States in which companies operate, which are inadequate in many cases, but should be governed by the international standards that are binding on those States and on the international community as a whole. Due diligence also means that companies must not contribute to States' failure to meet their international obligations in relation to indigenous rights, nor should they endeavour to replace the role of States in the fulfilment of those obligations. The Special Rapporteur considers the following to be necessary elements of the due diligence of companies whose activities affect indigenous peoples.

1. Recognition of indigenous peoples

94. One of the fundamental difficulties facing companies that operate in indigenous territories, or whose operations affect those territories, is the absence of formal recognition of indigenous peoples by the State in which they live, or recognition limited solely to certain groups. Nevertheless, a generally accepted principle of international human rights law holds that the existence of distinct

[5] This section summarizes the Special Rapporteur's discussion of corporate responsibility in A/HRC/15/37 (paras. 26-91).

ethnic, linguistic or religious groups, including indigenous peoples, can be established by objective criteria and cannot depend on a unilateral decision by a State.

95. Businesses cannot use limited recognition, or absence of explicit recognition, of indigenous peoples in the countries in which they operate as an excuse not to apply the minimum international standards applicable to indigenous peoples, including in cases where States are opposed to the application of such standards. Due diligence therefore requires that companies identify in advance the existence of indigenous peoples potentially affected by their activities and how they might be affected by such activities.

2. Rights to land, territories and natural resources

96. A second feature of the due diligence incumbent on companies whose activities have a potential impact on indigenous peoples is the identification of indigenous ownership or possession and use of land, territories and natural resources, a question of vital importance to the effective enjoyment of human rights by indigenous peoples. The lack of official recognition of land or resource rights by the State does not constitute adequate grounds for a company's failure to respect indigenous peoples' rights to land in accordance with international standards. Due diligence therefore requires that companies conduct an independent assessment of the rights to which indigenous people may lay claim in accordance with the criteria laid down in international instruments.

97. Companies should bring to bear an intercultural understanding that goes far beyond mere legal considerations. International standards have highlighted the special relationship existing between indigenous peoples and their traditional territories, which form the basis of their distinct identities and cultures. Companies must understand that, independent of the rights over their lands or resources to which they may lay claim under national law, indigenous peoples have maintained and continue to maintain ties to their traditional territories. Moreover, these ties are collective, and therefore go far beyond the individual rights of the members of these groups.

98. Companies should also put in place special guarantees of compensation for the removal of indigenous communities and peoples from their lands, including with regard to projects that involve the acquisition of indigenous lands held under individual titles. In such cases, international standards require that alternatives that limit or avoid such relocation be sought and that compensation in the form of other land be provided as a matter of priority.

3. The State's duty to consult and related corporate responsibilities

99. The principle of due diligence also requires that companies recognize the duty of States to consult indigenous peoples (and, in some cases, to obtain their consent) prior to the adoption of measures that may affect them directly and, in particular, in relation to projects that affect their traditional territories. Companies must not attempt to replace States in situations where international standards require States to bear direct responsibility for holding consultations; indeed, they must promote the full assumption by States of such responsibility. Furthermore, companies would fall short of their due diligence with respect to human rights if they agreed to proceed

with specific projects for which the State has failed to carry out an adequate consultation with indigenous peoples.

100. Without prejudice to the principle that States bear the main responsibility to consult, companies must respect the right of indigenous peoples to participate in decisions affecting them by ensuring adequate mechanisms for consultation and dialogue. Here, the purpose of consultations with indigenous peoples should be to seek consensus on key aspects such as identification of the potentially negative impact of the activities, measures to mitigate and compensate for such impact, and mechanisms for sharing the benefits derived from the activities.

4. Impact studies and compensation measures

101. Impact studies and the definition of appropriate measures to compensate for any negative impact identified are, by definition, related to the consultation process. In recognition of indigenous peoples' right to the conservation and protection of their lands and environments, international standards and practice now require that social and environmental impact studies be conducted as a specific guarantee for the protection of indigenous rights, in particular with regard to projects involving investment in or the development, exploration or extraction of natural resources likely to affect those rights.

5. Benefit-sharing

102. Aside from being entitled to compensation for damages or mitigation measures for negative impacts, indigenous peoples have the right to share in the benefits arising from activities taking place on their traditional territories, especially in relation to natural resource development. Companies are bound by their duty to respect indigenous rights to establish mechanisms that ensure that indigenous peoples share in the benefits generated by the activities in question. Benefit-sharing should be regarded as a means of complying with a right, not as a charitable award or favour granted by the company in order to secure social support for the project or minimize potential conflicts. Consideration should be given to the development of benefit-sharing mechanisms that genuinely strengthen the capacity of indigenous peoples to establish and pursue their own development priorities and that help indigenous peoples to make their own decision-making mechanisms and institutions more effective.

D. Extractive industries operating in or near indigenous territories[4]

103. The impact that extractive industries have on indigenous peoples is a subject of particular concern to the Special Rapporteur. In several country-specific and special reports, and in his review of particular cases, he has examined various situations in which extractive industry activities generate effects that infringe upon indigenous peoples' rights. The Special Rapporteur aims to contribute to efforts to clarify and resolve the problems arising from the activities of extractive industries in relation to indigenous peoples. In 2011 the Special Rapporteur disseminated a questionnaire on natural resource extraction and development projects in or near

[4] This section summarizes the report of the Special Rapporteur's discussion of extractive industries in A/HRC/18/35.

indigenous territories to collect and understand views, concerns and recommendations on the issue.

I. Preliminary assessment of the responses to the questionnaire

104. The views communicated by indigenous peoples, Governments, businesses and other relevant stakeholders concerning the development of projects for extracting natural resources and energy-related projects in indigenous territories reveal that, despite a growing awareness of the need to respect the rights of indigenous peoples, many problems still remain. The responses of indigenous peoples' organizations and representatives, Governments and corporations reflect a clear understanding of the negative, even catastrophic, impact on the economic, social and cultural rights of indigenous peoples caused by irresponsible or negligent projects that have been or are being implemented in indigenous territories without proper guarantees or the involvement of the peoples concerned.

105. In addition, while many Governments are committed to and have demonstrated an awareness of the need to protect the rights of indigenous peoples, the responses to the questionnaire received by the Special Rapporteur from States, coupled with those received from other sources, also reflect a lack of consensus with regard to the extent of a State's duties concerning resource extraction and development projects and the means of ensuring such protection. In several responses, particularly those received from businesses, it was pointed out that Governments tend to distance themselves from the implementation of the outcomes of consultation procedures and other measures to safeguard the rights of indigenous peoples in the context of extractive operations and to act as mere regulators. The fact that States tended to delegate their protective role to business enterprises was repeatedly pointed out as a matter of concern, particularly in cases in which the State's regulatory frameworks regarding indigenous rights, including in relation to the protection of lands and resources, consultation and benefit-sharing, are insufficient or do not exist.

106. Another significant area that elicited divergent responses concerned the balance of costs and benefits of extractive development projects. Although responders were aware of the negative impact that extractive activities had had on the lives of indigenous peoples in the past, they expressed widely divergent perspectives about the incidence and value of actual or potential benefits from extractive industries, especially with regard to the future. In their responses to the Special Rapporteur's questionnaire, many Governments underscored the key importance of such activities for their economies. Many businesses shared the view that indigenous peoples could benefit from the activities of extractive industries.

107. For their part, indigenous peoples expressed considerable scepticism and, in many cases, outright rejection of the possibility of benefiting from extractive or development projects in their traditional territories. The vast majority of indigenous peoples, many of whom had direct experience of specific projects affecting their territories and communities, emphasized in their responses a perception of disenfranchisement, the impression that States and businesses were ignorant of the rights and concerns of indigenous peoples and constant insecurity in terms of their livelihoods in the face of encroaching extractive activities. These perceptions have led indigenous peoples to see no positive impact from these operations, which are seen more as a top-down imposition of decisions taken in collusion by the State and

corporations to protect their own interests than the result of negotiated decisions with their communities.

2. Proposed future plan of work of the Special Rapporteur

108. In the view of the Special Rapporteur, the lack of understanding of key issues among all actors concerned is a major barrier to the effective protection and realization of indigenous peoples' rights in the context of extractive development projects. That, coupled with the existence of numerous grey conceptual and legal areas, has invariably proved to be a source of social conflict. Comparative experiences provide ample examples of the eruption and escalation of such conflicts and the ensuing radicalization of positions. Where social conflicts erupt in connection with extractive or development plans in indigenous territories, everybody loses.

109. The responses to the Special Rapporteur's questionnaire demonstrate the need for change in the currents state of affairs if indigenous rights standards are to have a meaningful effect on State and corporate policies and action as they relate to indigenous peoples. An initial step towards such change would be the establishment of a common understanding among indigenous peoples, governmental actors, businesses enterprises and others. The Special Rapporteur is conscious of the complexities inherent in any effort to harmonize the various interests involved, as well as of the difficulties of bridging the contrasting viewpoints that currently exist.

110. However, the Special Rapporteur is persuaded of the need to reach a common understanding of the content and scope of the rights of indigenous peoples and of the implications of those rights for the future desirability or viability of extractive industry activities in or near indigenous territories, the nature of the responsibility of States to protect indigenous peoples' rights in this context, the actual or potential impact of extractive industries (both positive and negative) and related matters. Without such understanding, the application of indigenous rights standards will continue to be contested, indigenous peoples will continue to be vulnerable to serious abuses of their individual and collective human rights and extractive activities that affect indigenous peoples will continue to face serious social and economic problems.

111. The Special Rapporteur is committed, during the second term of his mandate, to working in coordination with other mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples of the Human Rights Council, to develop concrete and practical recommendations, elaborating on the implications of existing human rights standards, to help States, businesses and indigenous peoples navigate the difficult issues that arise when extractive industries operate in or near indigenous territories.

V. Conclusion

112. **The Special Rapporteur reaffirms his strong commitment to the mandate he holds, acknowledges with humility the responsibility it represents and thanks all those who have supported and continue to support him in this role. In particular, he gratefully acknowledges the trust that has been conferred upon him by the Human Rights Council and thanks OHCHR and its staff for their committed assistance. He also thanks the staff and affiliated researchers**

of the Support Project for the Special Rapporteur on the Rights of Indigenous Peoples, which is part of the Indigenous Peoples Law and Policy Program at the University of Arizona, United States. Finally, he thanks the many indigenous peoples, Governments, United Nations bodies and agencies, non-governmental organizations and others that have cooperated with him over the past three years to implement his mandate.

113. The Special Rapporteur is pleased to provide the General Assembly with the present report and looks forward to holding a dialogue with States about his work. Although he is encouraged by the positive developments that have taken place in many places, he remains concerned about the ongoing struggles for and violations of indigenous peoples' rights throughout the world. During the second term of his mandate, he will make the development of concrete measures to tackle these pressing problems a top priority by identifying good practices and workable models and building on advances already made. Through this work, he hopes to assist in the multifaceted efforts under way to achieve the future envisioned by the Assembly when it adopted the United Nations Declaration on the Rights of Indigenous Peoples in 2007, a future in which indigenous peoples' distinct identities and cultures are fully valued and in which they have the opportunity to control their own destinies, under conditions of equality, within the broader societies in which they live.